REMARKS

Claims 1-28 are now pending in this application. Claims 1, 2, 15, 22, and 28 are independent. Claims 1, 2, 15, and 22 have been amended, claims 26-28 have been added, and no claims have been canceled by this amendment. No new matter is involved with any new claim or claim amendment.

Objection to the Drawings

Withdrawal of the objection to the Drawings is requested. Responsive to the Examiner's objection, FIG. 2 has been amended to include reference numeral "3" to indicate the "main transceiver".

No new matter is involved with this drawing amendment. A Replacement Drawing Sheet is provided as an attachment to this Amendment.

Discussion of Priority Claim

The Examiner acknowledges receipt of the claim for Paris Convention Priority and the certified copy of the foreign application.

The Examiner goes on to indicate that this priority claim cannot be relied upon to overcome any rejection in the application because an English translation has not been made of record.

Applicants point out that filing a verified translation of the priority document to perfect the claim to priority would not be effective to overcome either the reference to Fischell et al. (US 2003/0099412) or Amundson et al. (US 2003/0009204) by "swearing back" because each reference has an earlier effective U.S. filing date than the filing date of Applicants' priority application.

Anticipation Rejection By Fischel et al.

Withdrawal of the rejection of claims 1-6, 8, 9, and 11-25 under 35 U.S.C. §102(e) as being anticipated by Fischell et al. (US 2002/0099412) is requested.

Applicant notes that anticipation requires the disclosure, in a prior art reference, of each and every limitation as set forth in the claims.[1] There must be no difference between the claimed invention and reference disclosure for an anticipation rejection under 35 U.S.C. §102.[2] To properly anticipate a claim, the reference must teach every element of the claim.[3] "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference".[4] "The identical invention must be shown in as complete detail as is contained in the ...claim."[5] In determining anticipation, no claim limitation may be ignored.[6] The applied art fails to meet these requirements, particularly with respect to the pending independent claims as presently amended.

Discussion of Fischell et al.

Fischell et al. is directed to a method for using an implantable device for patient communication that is useful for treatment of certain neurological disorders.

This reference arguably provides wireless communication between implantable system 10 and external data interface 70 in FIG. 2, but clearly only provides ***wired*** RS-232C signal transmission 74 between external data interface 70 and the physician's workstation 80.

Fischell et al. does not provide for wirelessly transmitting the received in-vivo information to outside the relay device, as variously recited by Applicants. Further, the applied art does not disclose, teach, or suggest a main transceiver as disclosed, and as selectively claimed by Applicants.

---

[1] *Titanium Metals Corp. v. Banner*, 227 USPQ 773 (Fed. Cir. 1985).
[2] *Scripps Clinic and Research Foundation v. Genentech, Inc.*, 18 USPQ2d 1001 (Fed. Cir. 1991).
[3] *See* MPEP § 2131.
[4] *Verdegaal Bros. v. Union Oil Co. of Calif.*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Specific Deficiencies of Fischell et al.

The applied art does not disclose, teach, or suggest an in-vivo information extracting system that includes, among other features, "…a relay device which is installed outside the living body and near the tag device embedded in the living body…wherein the relay device comprises wireless transceiver means for receiving…the in-vivo information extracted by the tag device ***and wirelessly transmitting the received in-vivo information to outside the relay device***", as recited in independent claim 1, as amended.

In addition, the applied art does not disclose, teach, or suggest an in-vivo information extracting system that includes, among other features, "in-vivo information extracting system that includes, among other features, "…a tag device used in a living body, a relay device which is installed outside the living body and near the tag device placed in the living body, and ***a main transceiver*** which wirelessly exchanges signals with the relay device…wherein the relay device comprises…***relay transmission means for wirelessly transmitting the measured data received by the relay reception means to the main transceiver***", as recited in independent claim 2, as amended.

Further, the applied art does not disclose, teach, or suggest a tag device used for an in-vivo information extracting system which extracts in-vivo information using the tag device placed in a living body and which wirelessly transmits the in-vivo information via a relay device and a wireless main transceiver, wherein the tag device includes, among other features, "…tag transmission means for obtaining and ***wirelessly*** transmitting measured data about an environment within the living body to the main transceiver via the relay device", as recited in independent claim 15, as amended.

Finally, the applied art does not disclose, teach, or suggest a relay device used for an in-vivo information extracting system which extracts in-vivo information using a tag device placed

---

[5] *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).
[6] *Pac-Tex, Inc. v. Amerace Corp.*, 14 USPQ2d 187 (Fed. Cir. 1990).

in a living body and wirelessly transmits the in-vivo information via the relay device to a main transceiver, wherein the relay device includes, among other features, "...relay transmission means for wirelessly transmitting the measured data received by the relay reception means to the main transceiver", as recited in independent claim 22, as amended.

Accordingly, reconsideration and allowance of amended claims 1-6, 8, 9, and 11-25 are respectfully requested.

Unpatentability Rejection over Fischell in View of Amundson et al.

Withdrawal of the rejection of claims 7 and 10 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application No. 2003/0009204 to Amundson et al. is requested.

At the outset, Applicant notes that, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference must teach or suggest all the claim limitations.[7] Further, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure.[8]

The Examiner offers Amundson et al. as teaching means for retransmitting data when an acknowledgement signal is not received. Whether or not Amundson et al. teaches that for which the Examiner offers it, Amundson et al. do not make up for the previously identified limitations of independent claim 2, from which claims 7 and 10 variously and ultimately depend.

[7] *See* MPEP §2143.
[8] *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) and *See* MPEP §2143.

New Claims

Newly-presented claims 26-28 has been drafted to avoid the applied art and to further define that which Applicants regard as their invention. No new matter is involved with claims 26-28. Consideration and allowance of claim 26 are requested.

Conclusion

In view of the above amendment and remarks, Applicants believe that each of pending claims 1-28 in this application is in immediate condition for allowance. An early indication of the same would be appreciated.

In the event the Examiner believes an interview might serve to advance the prosecution of this application in any way, the undersigned attorney is available at the telephone number indicated below.

For any fees that are due, including fees for excess claims or extensions of time, the Director is hereby authorized to charge any fees or credit any overpayment during the pendency of this application to CBLH Deposit Account No. 22-0185, under Order No. 22040-00027-US1 from which the undersigned is authorized to draw.

Dated: December 27, 2006

Respectfully submitted,

Electronic signature: /Larry J. Hume/
Larry J. Hume
Registration No.: 44,163
CONNOLLY BOVE LODGE & HUTZ LLP
1990 M Street, N.W., Suite 800
Washington, DC 20036
(202) 331-7111
(202) 293-6229 (Fax)
Attorney for Applicant

Attachment: Replacement Drawing Sheet (1 sheet - FIGS. 2 and 3)